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*Proposed Co-Counsel for Debtors and
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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

BED BATH & BEYOND INC., *et al.*,
Debtors.¹

Chapter 11

Case No. 23-13359 (VFP)

(Joint Administration Requested)

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 650 Liberty Avenue, Union, New Jersey 07083.

**DECLARATION OF ELISE S. FREJKA,
CIPP/US, IN SUPPORT OF DEBTORS' MOTION
FOR ENTRY OF AN ORDER (I) APPROVING THE
AUCTION AND BIDDING PROCEDURES, (II) APPROVING
STALKING HORSE BID PROTECTIONS, (III) SCHEDULING
BID DEADLINES AND AN AUCTION, (IV) APPROVING THE FORM
AND MANNER OF NOTICE THEREOF, AND (V) GRANTING RELATED RELIEF**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Pursuant to 28 U.S.C. § 1746, I, Elise S. Frejka, CIPP/US, hereby declare as follows under penalty of perjury:

1. I am a licensed attorney, member at the law firm Frejka PLLC, and special counsel to the above-captioned debtors and debtors in possession (collectively, the “Debtors” or the “Company”). I have been practicing law since 1990, after graduating, *cum laude*, from New York Law School where I was awarded the James P. Kibbey Award for Excellence in Commercial Law. My practice is almost exclusively in the area of bankruptcy and bankruptcy litigation. I am admitted to practice before the courts of the State of New York, the Supreme Court of the United States, the Second and Federal Circuit Courts of Appeal, and the Southern, Eastern, and Northern Districts of New York.

2. Following my judicial clerkship for the Honorable Prudence Carter Beatty, United States Bankruptcy Judge, Southern District of New York (Retired), I spent the next two decades working in the bankruptcy and restructuring departments of major law firms including Kramer Levin Naftalis & Frankel LLP (Special Counsel, 2009–2015), Dechert LLP, as successor to Swidler Berlin Shereff Friedman LLP (Associate, 1999–2009), Togut Segal & Segal LLP (Associate, 1998 – 1999), and Curtis Mallet-Prevost, Colt & Mosle LLP (Associate, 1994–1998). In March 2015, I left big law and founded Frejka PLLC.

3. I am a Certified Information Privacy Professional (CIPP/US) credentialed by the International Association of Privacy Professionals and have been appointed the consumer privacy ombudsman by the United States Trustee Program in *In re Endo International plc*, No. 22-22549 (JLG) (Bankr. S.D.N.Y. Aug. 16, 2022); *In re Fred's Inc.*, No. 19-11984 (CSS) (Bankr. D. Del. Sept. 9, 2019); *In re uBiome, Inc.*, No. 19-11938 (LSS) (Bankr. D. Del. Sept 4, 2019); *In re Insys Therapeutics, Inc.*, No. 19-11292 (JTD) (Bankr. D. Del. June 10, 2019); *In re Ditech Holding Corporation*, No. 19-10412 (JLG) (Bankr. S.D.N.Y. Feb. 11, 2019); *In re Sears Holdings Corporation*, No. 18-23538 (RDD) (Bankr. S.D.N.Y. Oct. 15, 2018); *In re Hooper Holmes, Inc.*, No. 18-23302 (RDD) (Bankr. S.D.N.Y. Aug. 27, 2018); *In re Wall Street Languages Ltd.*, No. 18-11581 (SHL) (Bankr. S.D.N.Y. May 24, 2018); *In re Avaago, Inc.*, No. 17-12926 (MKV) (Bankr. S.D.N.Y. Oct. 19, 2017); *In re Toys "R" Us, Inc.*, No. 17-34665 (KLP) (Bankr. E.D. Va. Sept. 18, 2017); *In re Bristlecone, Inc.*, No. 17-50472 (BTB) (Bankr. D. Nev. Apr. 18, 2017); *In re Marbles Holdings LLC*, No. 17-03309 (TAB) (Bankr. N.D. Ill. Feb. 3, 2017); *In re The Wet Seal, LLC*, No. 17-10229 (CSS) (Bankr. D. Del. Feb. 2, 2017); *In re VoicePulse, Inc.*, No. 16-25075 (MBK) (Bankr. D.N.J. Aug. 5, 2016); *In re SFX Entm't, Inc.*, No. 16-10238 (MFW) (Bankr. D. Del. Feb. 1, 2016); *In re The Great Atlantic & Pacific Tea Co., Inc.*, No. 15-23007 (RDD) (Bankr. S.D.N.Y. July 19, 2015); and *In re RadioShack Corp.*, No. 15-10197 (BLS) (Bankr. D. Del. Feb. 5, 2015). I was special counsel to the debtors and filed a declaration in support of the sale process in *In re Le Tote, Inc.*, No. 20-33332 (KLP) (Bankr. E.D. Va. Feb. 17, 2020) [Docket No. 27], *In re Destination Maternity Corp.*, No. 19-12256 (BLS) (Bankr. D. Del. Oct. 25, 2019) [Docket No. 107] and *In re Pier 1 Imports, Inc.*, No. 20-30805 (KRH) (Bankr. E.D. Va. Feb. 17, 2020) [Docket No. 36]. In addition, while at Kramer Levin Naftalis & Frankel LLP, I represented the purchaser of the ecommerce business and customer data in *In re Circuit City*

Stores, Inc., No. 08-35653 (KRH) (Bankr. E.D. Va. Nov. 11, 2008) and actively participated in the consumer privacy ombudsman process.

4. I am a member of numerous professional associations, including the International Association of Privacy Professionals, American Bankruptcy Institute, International Women's Insolvency & Restructuring Confederation, Turnaround Management Association, and the National Association of Legal Fee Analysis. In addition, I have served as a presenter or panelist on consumer privacy issues at numerous conferences and seminars. Finally, for the past seven years I have been a guest lecturer at New York University School of Continuing and Professional Studies for the Bankruptcy, Workout and Reorganizations class where I frequently lecture on the intersection of privacy and bankruptcy.

5. I submit this declaration in support of the Debtors' Motion for Entry of an Order (I) Approving the Auction and Bidding Procedures, (II) Approving Stalking Horse Bid Procedures, (III) Scheduling Bid Deadlines and an Auction, (IV) Approving the Form and Manner of Notice thereof, and (V) Granting Related Relief (the "Motion").² Except as otherwise noted herein, the facts set forth in this Declaration are based upon my personal knowledge and independent investigation, store visits, the review of relevant Company policies, website caches of the Debtors' ecommerce sites available on the "waybackmachine" at www.archive.org, other information prepared by me or collected for me by the Debtors' employees, and my conversations with the Debtors' counsel or other advisors.

6. As part of the due diligence process, I personally tested the Company's data processing practices by (a) re-creating an account at <http://www.bedbathbeyond.com/> and <http://www.buybuybaby.com/>; (b) re-activating my membership in the Bed Bath & Beyond,

² Capitalized terms used but not defined herein have the meanings given to such terms in the Motion, as applicable.

buybuy Baby (“BABY”) combined welcome rewards program (“Welcome Rewards”); (c) signing up to receive electronic marketing materials from Bed Bath & Beyond and BABY; (d) visiting, or having someone visit at my direction, the Bed Bath & Beyond stores located at (i) 1187 Ulster Avenue, Kingston, New York 12401; (ii) 14 Candlewood Lake Road, Brookfield, Connecticut 06804; (iii) 300 Ikea Drive, Paramus, New Jersey 07652; (iv) 2141 Central Park Avenue, Yonkers, New York 10710; and (v) 2020 South Road, Poughkeepsie, New York 12601; (e) revoking my consent to receive marketing materials and modifying the frequency of my electronic marketing communications from Bed Bath & Beyond to confirm how the Company processes opt-out requests; and (f) meticulously securitizing and interacting with www.bedbathbeyond.com and www.buybuybaby.com, to understand how the Company’s privacy policy (the “Privacy Policy”) (hereinafter defined), attached hereto as Exhibit A is incorporated into the Company’s data collection and use from the consumer perspective.

7. If I were called to testify as a witness, I could and would competently testify to each of the facts set forth herein based upon my personal knowledge, review of documents, or opinion. I am authorized to submit this declaration on behalf of the Debtors.

The Debtors’ Privacy Policies and Data Processing

8. As described in the First Day Declaration, the Company’s core business is currently³ comprised of the two retail formats: (1) Bed Bath & Beyond, and (2) BABY.⁴ Both

³ Prior to the Petition Date, the Company shuttered Harmon Face Values (“Harmon”) and consumers visiting www.harmonfacevalues.com are redirected to the Bed Bath & Beyond ecommerce site. Because the Company has retained consumer’s personally identifiable information (defined below) collected from Harmon customers and the Harmon privacy policy permits, since at least 2007, the transfer personally identifiable information to unaffiliated third parties, this Declaration includes a discussion about Harmon.

⁴ The Company divested five non-core banners in 2020 including (i) One Kings Lane, (ii) PersonalizationMall.com, (iii) Christmas Tree Shops, (iv) Cost Plus World Market, and (v) Linen Holdings. It is my understanding that the Personally Identifiable Information (defined below) collected from consumers in connection with these banners was divested as well and that the Debtors only retained Personally Identifiable Information if the consumer had separately enrolled or conducted business with the remaining banners.

Bed Bath and Beyond and BABY have a strong online presence and maintain e-commerce websites at bedbathbeyond.com and buybuyBaby.com (collectively, the “Websites”), respectively. The collection, use, and sharing of personal information is governed by a privacy policy and Bed Bath & Beyond has had a privacy policy since November 1999 and BABY has had a privacy policy since 1999. The Company implemented a single privacy policy applicable to all affiliates, including Harmon, effective as of January 6, 2022, as updated effective August 26, 2022.

9. Since November 6, 2006 when the Company adopted the now common practice of permitting the transfer of personally identifiable information⁵ (“Personally Identifiable Information”) to an unaffiliated third-party as part of a larger business transaction, any consumer who voluntarily provided the Company with Personally Identifiable Information has affirmatively consented, or opted-in,⁶ to the collection and use of Personally Identifiable Information, the transfer of such Personally Identifiable Information as part of a business transaction, and to look to the Company’s website(s) to determine whether there has been a change to the Privacy Policy or the Company’s use and disclosure of Personally Identifiable Information. As such, if a consumer originally provided the Company with Personally Identifiable Information in 2004, for example, and continued to access the Websites and engage in transactions with the Company in 2023, such consumer has been deemed to consent to the current privacy policy which permits the sale of Personally Identifiable Information as part of a corporate transaction.

⁵ Section 101(41A) of the Bankruptcy Code defines “personally identifiable information” as an individual’s name, residence address, email address, telephone number, social security number, or credit card number, as well as an individual’s birth date or other information that, if associated with the information described previously, would permit the identification or contacting of the individual. 11 U.S.C. § 101(41A). 11 U.S.C. § 101(41A).

⁶ “Opt-in” consent requires affirmative steps by a consumer to allow the collection and/or use of information; “Opt-out” consent requires affirmative steps to prevent the collection and/or use of information.

10. Historically, the Company maintained separate, but similar, privacy policies for Bed Bath & Beyond, BABY, and Harmon. Over the years, the privacy policy has evolved to comply with changes in the law and data processing best practices but a key component of every iteration since November 6, 2006, is that Personally Identifiable Information could be shared with unaffiliated third parties as part of a business transaction.

11. All iterations of the Bed Bath & Beyond privacy policy since November 6, 2006 have contemplated that Personally Identifiable Information would be shared with third parties as part of a corporate transaction with an unaffiliated third-party:

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
August 26, 2022 ⁷	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our Privacy Policy and practices over time. To the extent that our Policy changes in a material way, the Policy that was in place at the time that you submitted personal information to us will generally govern that information.
January 6, 2022 ⁸	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our Privacy Policy and practices over time. To the extent that our Policy changes in a material way, the Policy that was in place at the time that you submitted personal information to us will generally govern that information.

⁷ BED BATH & BEYOND, <https://www.bedbathandbeyond.com/store/static/PrivacyPolicy> (last visited Apr. 20, 2023)

⁸ BED BATH & BEYOND, <https://www.bedbathandbeyond.com/store/static/PrivacyPolicy> (last visited Jan. 30, 2023)

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
March 17, 2021 ⁹	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our privacy policy and practices over time. To the extent that our policy changes in a material way, the policy that was in place at the time that you submitted personal information to us will generally govern that information.
June 30, 2020 ¹⁰	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our privacy policy and practices over time. To the extent that our policy changes in a material way, the policy that was in place at the time that you submitted personal information to us will generally govern that information.
December 31, 2019 ¹¹	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposed to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our privacy policy and practices over time. To the extent that our policy changes in a material way, the policy that was in place at the time that you submitted personal information to us will generally govern that information.

⁹ BED BATH & BEYOND,
<https://web.archive.org/web/20211124181541/https://www.bedbathandbeyond.com/store/static/PrivacyPolicy>
(last visited Feb. 2, 2023)

¹⁰ BED BATH & BEYOND,
<https://web.archive.org/web/20210123233713/https://www.bedbathandbeyond.com/store/static/PrivacyPolicy>
(last visited Jan 30, 2023)

¹¹ BED BATH & BEYOND,
<https://web.archive.org/web/20210123233713/https://www.bedbathandbeyond.com/store/static/PrivacyPolicy>

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
May 17, 2018 ¹²	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires our company, business, or our assets, we will also share your personal information with that company.</i>	We may change our privacy policy and practices over time. To the extent that our policy changes in a material way, the policy that was in place at the time that you submitted personal information to us will generally govern that information.
September 15, 2016 ¹³	If we merge, or sell or otherwise transfer our assets, Site or operations, we may disclose or transfer your information in connection with such transaction.	As we update and diversify our products and services, this Privacy Policy may change. We reserve the right, at our discretion, to change, modify, add, or remove portions of this Privacy Policy at any time. Please check this page for updates periodically. If we make any material changes to this Privacy Policy, we will notify you here. We generally do not provide notice of changes to this Privacy Policy and your use of the Site following any posted changes will indicate your acceptance of such changes. This Privacy Policy became effective in November, 1999, and was most recently changed on September 15, 2016

(last visited Jan 30, 2023)

¹² BED BATH & BEYOND,
<https://web.archive.org/web/20200201150256/https://www.bedbathandbeyond.com/store/static/PrivacyPolicy>
(last visited Jan. 30, 2023)

¹³ BED BATH & BEYOND,
<https://web.archive.org/web/20161229043743/https://www.bedbathandbeyond.com/store/static/PrivacyPolicy>,
(last visited Jan. 30, 2023)

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
November 7, 2010 ¹⁴	If we merge, or sell or otherwise transfer our assets, Site or operations, we may disclose or transfer your Personal Information in connection with such transaction.	As we update and diversify our products and services, this Privacy Policy may change. We reserve the right, at our discretion, to change, modify, add, or remove portions of this Privacy Policy at any time. Please check this page for updates periodically. If we make any material changes to this Privacy Policy, we will notify you here. Unless the law otherwise requires, we do not provide notice of changes to this Privacy Policy and your use of the Site following any posted changes will indicate your acceptance of such changes. This Privacy Policy became effective in November, 1999 and was most recently changed on November 7, 2010.
November 6, 2009 ¹⁵	If we merge, or sell or otherwise transfer our assets, Site or operations, we may disclose or transfer your Personal Information in connection with such transaction.	As we update and diversify our products and services, this Privacy Policy may change. We reserve the right, at our discretion, to change, modify, add, or remove portions of this Privacy Policy at any time. Please check this page for updates periodically. If we make any material changes to this Privacy Policy, we will notify you here. Unless the law otherwise requires, we do not provide notice of changes to this Privacy Policy and your use of the Site following any posted changes will indicate your acceptance of such changes.

¹⁴ BED BATH & BEYOND,
<https://web.archive.org/web/20131016092549/http://www.bedbathandbeyond.com/store/static/PrivacyPolicy?MC=1&> (last visited Jan. 30, 2023)

¹⁵ BED BATH & BEYOND,
https://web.archive.org/web/20091202003552/http://www.bedbathandbeyond.com/policyPrivacy.asp?order_nm=-1& (last visited Jan. 30, 2023)

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
September 23, 2008 ¹⁶	If we merge, or sell or otherwise transfer our assets, Site or operations, we may disclose or transfer your Personal Information in connection with such transaction.	We reserve the right, at our discretion, to change, modify, add, or remove portions of this Privacy Policy at any time. Please check this page for updates periodically. If we make any material changes to this Privacy Policy, we will notify you here. Unless the law otherwise requires, we do not provide notice of changes to this Privacy Policy and your use of the Site following any posted changes will indicate your acceptance of such changes.
November 6, 2006 ¹⁷	In the event that Bed Bath & Beyond is merged, or in the event of a transfer of our assets, Site or operations, Bed Bath & Beyond may disclose or transfer your Personal Information in connection with such transaction. In the event of such a transfer, Bed Bath & Beyond will notify you by posting a prominent notice on our Site for 30 days of any such change in ownership of Bed Bath & Beyond resulting in a change of control of your Personal Information.	This Privacy Policy will be continuously assessed against new technologies, business practices and our customers' needs. As we update and diversify our products and services, this Privacy Policy may evolve. Please check this page for updates periodically. If we make any material changes to this Privacy Policy, we will notify you here. Your use of the Site following any posted changes to the Privacy Policy indicates your acceptance of such changes.

¹⁶ BED BATH & BEYOND,
https://web.archive.org/web/20090224151540/http://www.bedbathandbeyond.com/policyPrivacy.asp?order_nu_m=-1& (last visited Jan. 30, 2023)

¹⁷ BED BATH & BEYOND,
https://web.archive.org/web/20070812133217/http://www.bedbathandbeyond.com/policyPrivacy.asp?order_nu_m=-1& (last visited Jan. 30, 2023)

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
September 12, 2006 ¹⁸	In the event that Bed Bath & Beyond is merged, or in the event of a transfer of our assets, Site or operations, Bed Bath & Beyond may disclose or transfer your Personal Information in connection with such transaction. In the event of such a transfer, Bed Bath & Beyond will notify you by posting a prominent notice on our Site for 30 days of any such change in ownership of Bed Bath & Beyond resulting in a change of control of your Personal Information.	We reserve the right, at our discretion, to change, modify, add, or remove portions of this Privacy Policy at any time. If this Privacy Policy changes in the future, we will let you know by posting the new Privacy Policy on our Site or by sending an email to our opt-in list. Please check this Web page periodically for changes. Your continued use of our Site following the posting of changes to these terms and conditions will mean you accept the changes contained in the latest published Privacy Policy.
March 15, 2006 ¹⁹	At Bed Bath & Beyond we are committed to protecting the privacy of our customers, which is why we do not sell or rent any personal identifiable information regarding our customers to any third party.	We reserve the right, at our discretion, to change, modify, add, or remove portions of this policy at any time. If this policy changes in the future, we will let you know by posting the policy on our Web site or by sending an email to our opt-in list. Please check this page periodically for changes. Your continued use of our Web site following the posting of changes to these terms will mean you accept those changes.
August 2004 ²⁰	At Bed Bath & Beyond we are committed to protecting the privacy of our customers, which is why we do not sell, rent, or loan any personal identifiable information regarding our customers to any third party.	We reserve the right, at our discretion, to change, modify, add, or remove portions of this policy at any time. If this policy changes in the future, we will let you know by posting the policy on our Web site or by sending an email to our opt-in list. Please check this page periodically for changes. Your continued use of our Web site following the posting of changes to these terms will mean you accept those changes.

18 BED BATH & BEYOND,
https://web.archive.org/web/20080210102619/http://www.bedbathandbeyond.com/policyPrivacy.asp?order_num=-1& (last visited Jan. 30, 2023)

19 BED BATH & BEYOND,
https://web.archive.org/web/20060426174800/http://www.bedbathandbeyond.com/policyPrivacy.asp?order_num=-1& (last visited Feb. 2, 2023)

20 BED BATH & BEYOND,
https://web.archive.org/web/20060426174800/http://www.bedbathandbeyond.com/policyPrivacy.asp?order_num=-1& (last visited Feb. 2, 2023)

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
November 1999 ²¹	At Bed Bath & Beyond we are committed to protecting the privacy of our customers, which is why we do not sell, rent, or loan any personal identifiable information regarding our customers to any third party.	By using our Web site, you agree to accept the Bed Bath & Beyond privacy policy. Make sure you read this policy carefully, because if you do choose to use our Web site, you automatically agree to this policy. If you do not agree to this policy, please do not use our Web site. We reserve the right, at our discretion, to change, modify, add, or remove portions of this policy at any time. Please check this page periodically for changes. Your continued use of our Web site following the posting of changes to these terms will mean you accept those changes.

12. All iterations of the BABY privacy policy since May 17, 2018 have contemplated that Personally Identifiable Information would be shared with third parties as part of a corporate transaction with an unaffiliated third-party:

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
August 26, 2022 ²²	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our Privacy Policy and practices over time. To the extent that our Policy changes in a material way, the Policy that was in place at the time that you submitted personal information to us will generally govern that information.

²¹ BED BATH & BEYOND,
<https://web.archive.org/web/20000408214452/http://www.bedbathandbeyond.com/privPolicy.asp>, (last visited Jan. 30, 2023)

²² BUYBUY BABY, <https://www.buybuybaby.com/store/static/PrivacyPolicy>, (last visited Apr. 20, 2023)

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
January 6, 2022 ²³	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our Privacy Policy and practices over time. To the extent that our Policy changes in a material way, the Policy that was in place at the time that you submitted personal information to us will generally govern that information.
March 17, 2021 ²⁴	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our privacy policy and practices over time. To the extent that our policy changes in a material way, the policy that was in place at the time that you submitted personal information to us will generally govern that information.
June 30, 2020 ²⁵	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our privacy policy and practices over time. To the extent that our policy changes in a material way, the policy that was in place at the time that you submitted personal information to us will generally govern that information.

²³ BUYBUY BABY,
<https://web.archive.org/web/20220525163120/https://www.buybuybaby.com/store/static/PrivacyPolicy> (last visited Feb. 1, 2023)

²⁴ BUYBUY BABY,
<https://web.archive.org/web/20211124181541/https://www.bedbathandbeyond.com/store/static/PrivacyPolicy> (last visited Feb. 2, 2023)

²⁵ BUYBUY BABY,
<https://web.archive.org/web/20200924152917/https://www.buybuybaby.com/store/static/PrivacyPolicy> (last

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
December 31, 2019 ²⁶	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). If another company acquires (or proposed to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.	We may change our privacy policy and practices over time. To the extent that our policy changes in a material way, the policy that was in place at the time that you submitted personal information to us will generally govern that information.
May 17, 2018 ²⁷	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires our company, business, or our assets, we will also share your personal information with that company.</i>	We may change our privacy policy and practices over time. To the extent that our policy changes in a material way, the policy that was in place at the time that you submitted personal information to us will generally govern that information.
November 10, 2010 ²⁸	At buybuy BABY we are committed to protecting the privacy of our customers, and therefore do not sell or rent our customers' Personal Information to any third party. Further, we do not share your Personal Information with any third parties for their direct marketing purposes without first providing you the opportunity to opt-in or opt-out of such sharing.	We reserve the right, at our discretion, to change, modify, add, or remove portions of this Privacy Policy at any time. Please check this page for updates periodically. If we make any material changes to this Privacy Policy, we will notify you here. Unless the law otherwise requires, we do not provide notice of changes to this Privacy Policy and your use of the Site following any posted changes will indicate your acceptance of such changes.

visited Feb. 2, 2023)

²⁶ BUYBUY BABY,
<https://web.archive.org/web/20200331083415/https://www.buybuybaby.com/store/static/PrivacyPolicy> (last visited Feb. 3, 2023)

²⁷ BUYBUY BABY,
<https://web.archive.org/web/20181019150903/https://www.buybuybaby.com/store/static/PrivacyPolicy> (last visited Feb. 2, 2023)

²⁸ BUYBUY BABY,
<https://web.archive.org/web/20130212154250/https://www.buybuybaby.com/store/static/PrivacyPolicy>
accessed 2/1/23 (last visited Feb. 2, 2023)

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
January 29, 2008 ²⁹	At buybuy BABY we are committed to protecting the privacy of our customers, which is why we do not sell or rent any personal identifiable information regarding our customers to any third party.	If this Privacy Policy changes in the future, we will let you know by posting the new Privacy Policy on the Site or by sending an email to our opt-in list. Please check this Web page periodically for changes. Your continued use of the Site following the posting of changes to these terms and conditions will mean you accept the changes contained in the latest published Privacy Policy.

13. The Harmon³⁰ privacy policy has changed over the years, but all iterations since April 2, 2007 have contemplated that Personally Identifiable Information could be shared with third parties as part of a corporate transaction:

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
January 6, 2022 ³¹	We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). <i>If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.</i>	We may change our Privacy Policy and practices over time. To the extent that our Policy changes in a material way, the Policy that was in place at the time that you submitted personal information to us will generally govern that information.

²⁹ BUYBUY BABY,
https://web.archive.org/web/20080201205950/http://www.buybuybaby.com/policyPrivacy.asp?order_num=-1&
 (last visited Feb. 2, 2023)

³⁰ The URL <https://www.harmonfacevalues.com> was not captured by the waybackmachine or other caches with any frequency and to the extent there were further revisions to the privacy policy between 2007 and 2022 those changes are not reflected. Notwithstanding the foregoing, consistent with the revisions to the Bed Bath & Beyond privacy policy, any changes after April 2, 2007 likely track the changes to the Bed Bath & Beyond and BABY privacy policies and are not an impediment to the transfer of Personally Identifiable Information to an unaffiliated third party.

³¹ BED BATH & BEYOND, <https://www.bedbathandbeyond.com/store/static/PrivacyPolicy> (last visited Jan. 30, 2023)

Effective Date	Sharing of Personal Information	Changes to Privacy Policy
April 2, 2007 ³²	In the event that Harmon is merged, or in the event of a transfer of our assets, Site or operations, <i>Harmon may disclose or transfer your Personal Information in connection with such transaction.</i> In the event of such a transfer, Harmon will notify you by posting a prominent notice on our Site for 30 days of any such change in ownership of Harmon resulting in a change of control of your Personal Information.	We reserve the right, at our discretion, to change, modify, add, or remove portions of this policy at any time. If this policy changes in the future, we will let you know by posting the Privacy Policy on our Site or by sending an email to our opt-in list. Please check this Web page periodically for changes. Your continued use of our Site following the posting of changes to these terms and conditions will mean you accept the changes in the latest published Privacy Policy.

Transfer of Personally Identifiable Information is Permissible

14. Section 332 of the Bankruptcy Code requires the appointment of a consumer privacy ombudsman (an “Ombudsman”) only when a debtor seeks to sell or transfer Personally Identifiable Information in contravention of the debtor’s privacy policy with respect to the transfer of such Personally Identifiable Information. *See 11 U.S.C. § 363 (b)(1)(A).*

15. Based upon my investigation of the facts and circumstances surrounding the Company’s collection and processing of Personally Identifiable Information, consumers³³ affirmatively consented to the transfer of their Personally Identifiable Information as part of a sale when they (a) subscribed to receive communications from the Company, (b) registered for Welcome Rewards, (c) entered a sweepstakes or other promotion, (d) created an account with the

³² HARMON FACE VALUES,
<https://web.archive.org/web/20090615025040/http://harmonfacevalues.com/privacypolicy.html> (last visited Feb. 3, 2023)

³³ The Company will need to focus on any limitations imposed on the sale or transfer of Personally Identifiable Information by the European Union (EU) General Data Protection Regulation (2016/679), the UK Data Protection Act of 2018, the California Consumer Privacy Act of 2018 (“CCPA”) (Cal. Civ. Code §§ 1798.100-1798.199) and other state data protection laws once a buyer is identified but this is not a basis to appoint a consumer privacy ombudsman. While the Company does not intentionally collect Personally Identifiable Information from residents of the United Kingdom or the European Union, consumers visiting from those countries may have signed up for marketing messages to receive coupons and other discounts while in the United States.

Debtors, or (e) otherwise continued to interface with the Company.³⁴ As such, I do not believe the appointment of a consumer privacy ombudsman is necessary or required to effectuate a transfer of the Company's customer data to an unaffiliated third-party provided that the Company complies with state data protection laws regarding any such transfer.

³⁴ The landing page for www.bedbathbeyond.com and www.buybuybaby.com both contain a link to "Update Your Email Preferences" to the extent any consumer prefers to change the frequency of communications or unsubscribe from direct mail.

* * * *

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 23rd day of April, 2023

/S/ Elise S. Frejka
Elise S. Frejka

Exhibit A

Privacy Policy

Privacy Policy

This Privacy Policy describes how Bed Bath & Beyond and its affiliates collect, use, and share personal information, unless a particular affiliate has a different Privacy Policy posted on its website, in which case that Privacy Policy shall describe that affiliate's collection, use, and sharing of personal information. The "affiliates" referred to in this Privacy Policy includes concepts such as buybuy BABY, Harmon Face Values, Decorist, and such other affiliates as we may acquire or launch from time to time.

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Types of Information We Collect

Personal information means information that allows someone to identify or contact you or your household. Non-personal information means information that does not directly identify you or your household. We collect both types of information about you.

The following provides examples of the types of information that some of our concepts collect about you and how we use the information.

Context	Types of Information	Primary Purpose for Collection and Use of Information
Account Registration	We collect your name and contact information when you create an account.	We have a legitimate interest in providing account relating functionalities to our users. Accounts can be used for easy checkout and to save your preferences and transaction history.
Loyalty Membership Programs	If you sign up for our Welcome Rewards, Welcome Rewards+, or Business Pass membership program, we collect your name, contact information (such as email address and phone number), billing address, and payment card information. We use reasonable efforts to protect such payment card information from unauthorized access, use, or disclosure (for more information please see the section below titled "How We Protect Personal Information").	We have a legitimate interest in administering our Welcome Rewards, Welcome Rewards+, and Business Pass Programs, including, among other things, processing your payment for the membership, communicating with you about program benefits, providing you with membership benefits, detecting security incidents, and protecting against malicious, deceptive, fraudulent, or illegal activity.
Brand Credit Cards	If you apply for one of our brand credit cards, we collect your name, address, last 4 digits of your social security number, social insurance number, and income information. When you use your brand credit card, we also receive information from the financial institutions that we partner with, such as transaction history (including credit card number) and account profile. We use reasonable efforts to protect such credit card information from unauthorized access, use, or disclosure (for more information please see the section below titled "How We Protect Personal Information").	We use your information to perform our contract to provide you with the benefits associated with our credit cards, such as tracking the rewards/points you earn for purchasing products. We also have a legitimate interest in performing audits and maintaining business records associated with our credit card programs.
Demographic Information	We may collect information from you, such as your age or location.	We have a legitimate interest in understanding our users and providing tailored services and products.
Distance Information	When you use one of our Apps we collect your location from the GPS, Wi-Fi, and/or cellular technology in your device to determine your distance from a store.	We have a legitimate interest in understanding our users and providing tailored services and products. In some contexts, our use is also based upon your consent to provide us with geolocation information.
Email Interconnectivity	If you receive email from us, we use certain tools to capture data related to when you open our message, click on any links or banners it contains, and make purchases.	We have a legitimate interest in understanding how you interact with our communications to you.
Employment	If you apply for a job, we collect information necessary to process your application or to retain you as an employee. Employees are provided a separate privacy notice that relates to employment data.	In some contexts, we are required by law to collect information about our employees. We also have a legitimate interest in using your information to have efficient staffing and work force operations.
Feedback/Support	If you provide us feedback or contact us for support, we will collect your name and e-mail address and possibly other personal information, as well as any other content that you send to us in order to reply. If you have an issue or concern with a particular product, we may share that information and your e-mail address with the vendor of that product.	We have a legitimate interest in receiving, and acting upon, your feedback or issues. We also have a legitimate interest in sharing your contact information with the vendor who manufactured and/or shipped the product about which you provide feedback, in order to facilitate any necessary resolution.
Mailing List	When you sign up for one of our mailing lists, we collect your email address or postal address.	Where required by law, we have obtained your consent to share information about our products or services, and we use your email address or postal address to share such information. We also have a legitimate interest in sharing information about our products or services, and we use your email address or postal address to share such information.
Mobile Devices	We collect information from your mobile device such as unique identifying information broadcast from your device when visiting our website or when visiting one of our stores.	We have a legitimate interest in identifying unique visitors, and in understanding how users interact with us on their mobile devices.
Order Placement	We collect your name, billing address, shipping address, e-mail address, phone number, and payment card information when you place an order. We use reasonable efforts to protect such payment card information from unauthorized access, use, or disclosure (for more information, please see the section below titled "How We Protect Personal Information").	We use your information to perform our contract to provide you with products or services.
Partner Promotion	We collect information that you provide as part of a co-branded promotion with another company.	We have a legitimate interest in fulfilling our promotions.
Surveys	When you participate in a survey, we collect additional information that you provide through the survey. If the survey is provided by a third-party service provider, the third party's privacy policy applies to the collection, use, and disclosure of your information.	We have a legitimate interest in understanding your opinions and collecting information relevant to our organization.
Sweepstakes or contests	When you participate in a sweepstakes or contest, we collect information about you which includes contact information to notify you if you are selected.	We have a legitimate interest in operating the sweepstakes. In some contexts, we are also required by law to collect information about those who enter into our sweepstakes.
Third Party Tracking	We participate in behavior-based advertising. This means that a third party may use technology (e.g., a cookie) (further described below) to collect information about your use of our website so that they can provide advertising about products and services tailored to your interests. That advertising may appear either on our websites, or on other websites. You can opt-out of receiving advertising based upon your browsing behavior from some network advertising companies by going to the Network Advertising Initiative and the Digital Advertising Alliance websites . Cookies may be managed by following instructions provided by your browser.	We use this information to provide advertising about products and services tailored to our users' interests.
Web logs	We collect information from you, including your browser type, operating system, Internet Protocol (IP) address (a number that is automatically assigned to your computer when you use the Internet), domain name, click-activity, referring website, and/or a date/time stamp for your visit.	We have a legitimate interest in monitoring our networks and the visitors to our websites. Among other things, it helps us understand which of our services is the most popular.
Cookies	"Cookies" are small pieces of information that a website sends to your device while you are viewing a website. We use both session cookies (which expire once you close your web browser) and persistent cookies (which stay on your device until you delete them). Among other things, cookies allow us to provide you with a more personal and interactive experience tailored to your interests and to improve our marketing efforts. Cookies may be managed by following instructions provided by your browser. If you choose to disable cookies, some areas or features of our websites may not work properly.	We use this information to make our websites operate efficiently, to improve user experience on our websites, and to understand website traffic and how our websites are being used.

In addition to the information that we collect from you directly, we may also receive information about you from other sources, including third parties, business partners, our affiliates, or publicly available sources.

Use and Processing of Your Personal Information

In addition to the uses described above, we use your personal information in the following ways:

- To identify you when you visit our websites or our stores.
- To provide the products and services you request, or to process returns.
- To improve our services and product offerings.
- To improve your online shopping experience by reminding you of products left in your shopping cart by utilizing cookies as described in the "Type of Information We Collect" section above.
- To streamline your checkout process.
- To conduct analytics (e.g., to enhance user experience on our website).
- To respond to your inquiries related to support, employment opportunities, or other requests.
- To send marketing and promotional materials, including information relating to products, services, sales, or promotions.
- For internal administrative purposes, as well as to manage our relationship with you.
- To detect security incidents, and protect against malicious, deceptive, fraudulent, or illegal activity, including attempts to manipulate or violate our policies, procedures, or terms and conditions.
- To comply with legal obligations, to establish or exercise our rights, to defend against a legal claim, and to investigate, prevent, or take action regarding possible misconduct.

Sharing of Personal Information

In addition to the specific situations discussed elsewhere in this Policy, we disclose personal information in the following situations:

1. **Affiliates and Acquisitions.** We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.
2. **Financial Companies.** We may offer credit cards for some of our brands. If you apply for one of our brand credit cards, we transfer that information to the financial companies we partner with. Additionally, if you use one of our brand credit cards, we transfer transaction records to those financial companies as part of the program administration.
3. **Other Disclosures without Your Consent.** We may ask if you would like us to share your information with other unaffiliated third parties who are not described elsewhere in this Policy.
4. **Other Disclosures with Your Consent.** We may disclose personal information in response to subpoenas, warrants, or court orders, or in connection with any legal process, or to comply with relevant laws. We may also share your personal information in order to evaluate or violation of our policies, or to defend against a legal claim, to investigate, prevent, or take action regarding possible misconduct by a third-party intermediary.
5. **Public.** Some of our websites provide the opportunity to post comments or reviews in a public forum. If you decide to submit information on these pages, that information may be publicly available.
6. **Partner Promotion.** We may offer contests, sweepstakes, or other promotions with third-party partners. If you decide to enter a contest, sweepstakes, or promotion that is sponsored by a third-party partner, the information that you provide will be shared with us and with them. Their use of your information is not governed by this Privacy Policy.
7. **Service Providers.** We share your personal information with service providers. Among other things, service providers may help us to administer our website, support our loyalty programs, conduct surveys, or conduct market research.
8. **Wedding, Baby, and/or Gift Registry.** Some of our websites provide the opportunity to create public registries where you can indicate to others what types of products you might be interested in receiving. We share the information that you provide about your event (e.g., name, date, location, etc.) with the public to permit others to search for that information. In some cases, we may provide you with options to restrict the extent to which that information will be shared, such as name, date, location, etc.
9. **Rebates.** We may share your personal information with third parties to provide you with rebates. We may also share your information with third-party wedding and gift registry portal sites. Among other things, this provides your guests with additional means of finding your registry and coordinating gifts.

Your Choices

You can make the following choices regarding your personal information:

- **Promotional Emails.** You may choose to provide us with your email address for the purpose of allowing us and our affiliates to send free newsletters, surveys, offers, and other promotional materials to you, including targeted offers from third parties. You can stop receiving promotional emails by following the unsubscribe instructions in e-mails that you receive. If you decide not to receive promotional emails, we may still send you transactional communications, such as those about your account, to fulfill orders you have made, to ask you to rate your account profile, Note that we may keep historical information in our backup files as permitted by law.
- **Promotional Mailings.** If at any time you do not want to receive offers and/or circulars from us, you can remove yourself from our mailing lists by emailing us (our contact information is below) with "NO SNAIL MAIL" in the subject line along with your name, address and zip code or postal code. Please note that our mailings are prepared in advance of being sent. Although we will remove your name from our mailing list after receiving your request, you may still receive mail from us that had been initiated prior to your name being removed.
- **Changes to Your Personal Information.** We rely on you to update and correct your personal information. Most of our websites allow you to modify your account profile. Note that we may keep historical information in our backup files as permitted by law.
- **Online Tracking.** We do not currently recognize a broadcast "Do Not Track" browser signal.
- **Texting Terms and Conditions.** As per the "Terms of Use" of the Bed Bath & Beyond website, <https://www.bedbathandbeyond.com/store/static/TermsOfUse>, by providing your mobile number and clicking "I CONSENT", you consent to receive mobile text alerts regarding exclusive offers and promotions from Bed Bath & Beyond Inc. You may receive recurring Bed Bath & Beyond Inc. text messages and site abandonment reminder messages (including shopping cart reminders). You understand that you do not have to sign up for this program in order to make any purchases, and data consent rates is not a condition of purchase. By signing up, you are agreeing you are over the age of 13. We will send mobile text messages using automated technology. Standard message and data rates may apply. You may cancel at any time by texting STOP to 52170.

How We Protect Personal Information

We retain your personal information for the period necessary to fulfill the purposes outlined in this Privacy Policy, unless a longer retention period is required or permitted by law.

Information for California Residents

- **California Information Sharing Disclosure.** California law indicates that organizations should disclose whether certain categories of information are collected, "sold" or transferred for an organization's "business purpose" (as those terms are defined under California law). You can find a list of the categories of information that we collect and share at the end of this Privacy Policy. Please note that because this list is not comprehensive, it may refer to types of information that we use for direct marketing, please submit a written request to us for information in the "Contact Information" section below.
- **Rights with Respect to Personal Information.** If you are a resident of California, you may have additional rights under applicable data protection laws, with respect to your personal information including:

- **Request Access.** If requested by law, upon request, we will grant reasonable access to the personal information that we hold about you, including in some cases the right to data portability. You can exercise this right by completing and submitting a [Request Form](#) or by contacting us at 1-800-GO-BEYOND (1-800-462-3966) between 7:00 am and 12:00 pm EST, seven (7) days a week.

- **Request Correction.** In certain circumstances, you may request that we delete your personal information. If requested by law, we will delete your personal information after such a request is made. We may also decide to delete your data if we believe the data is incomplete, inaccurate, or that our continued use and storage are contrary to our obligations or third parties or that there are some situations in which we may decide to delete your personal information. For example, we may keep your personal information as needed to comply with a legal obligation, or to defend against a legal claim, to investigate, prevent, or take action regarding possible misconduct by a third-party intermediary.

- **Request Deletion.** We may offer contests, sweepstakes, or other promotions with third-party partners. If you decide to enter a contest, sweepstakes, or promotion that is sponsored by a third-party partner, the information that you provide will be shared with us and with them. Their use of your information is not governed by this Privacy Policy.

- **Do Not Sell My Personal Information.** We do not sell your personal information to third parties. We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.

- **Opt Out of Selling Personal Information.** You can opt out of having your personal information sold to third parties by completing and submitting a [Request Form](#) or by contacting us at 1-800-GO-BEYOND (1-800-462-3966) between 7:00 am and 12:00 pm EST, seven (7) days a week.

- **Do Not Track.** We do not currently recognize a broadcast "Do Not Track" browser signal.

- **Texting Terms and Conditions.** As per the "Terms of Use" of the Bed Bath & Beyond website, <https://www.bedbathandbeyond.com/store/static/TermsOfUse>, by providing your mobile number and clicking "I CONSENT", you consent to receive mobile text alerts regarding exclusive offers and promotions from Bed Bath & Beyond Inc. You may receive recurring Bed Bath & Beyond Inc. text messages and site abandonment reminder messages (including shopping cart reminders). You understand that you do not have to sign up for this program in order to make any purchases, and data consent rates is not a condition of purchase. By signing up, you are agreeing you are over the age of 13. We will send mobile text messages using automated technology. Standard message and data rates may apply. You may cancel at any time by texting STOP to 52170.

- **California Privacy Protection Act.** We do not sell your personal information to third parties. We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.

- **California Consumer Privacy Act.** We do not sell your personal information to third parties. We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.

- **California Privacy Protection Act.** We do not sell your personal information to third parties. We may share your personal information with our corporate affiliates (e.g., parent company, sister companies, subsidiaries, joint ventures, or other companies under common control). If another company acquires (or proposes to acquire) our company, any of our affiliates, business, or our assets, we will also share your personal information with that company, including at the negotiation stage.

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- **California**